

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Matejcek	Team: Squad #7	CCRB Case #: 201706865	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/16/2017 10:49 PM	Location of Incident: [REDACTED]	Precinct: 81	18 Mo. SOL 2/16/2019	EO SOL 2/16/2019	
Date/Time CV Reported Fri, 08/18/2017 1:43 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 08/18/2017 1:43 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Colin Kogan	21160	958769	HBK RT
2. POM Luis Miranda	27474	957772	HBK RT
3. Officers			HBK RT
4. POF Lace Kirk	14349	956802	081 PCT
5. POM Andrew Fredrickson	03273	956659	081 PCT
6. LT Roman Israilov	00000	932816	081 PCT
7. An officer			HBK RT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Phillip Correale	16904	957488	HBK RT
2. POM Gary Clemente	18573	958414	HBK RT
3. SGT Gina Morningkelleher	01882	942235	081 PCT
4. SGT Brian Farrell	02928	938465	HBK RT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: At § 87(2)(b) [REDACTED] in Brooklyn, officers stopped § 87(2)(b) [REDACTED]	[REDACTED]
B. Officers	Abuse: At § 87(2)(b) [REDACTED] in Brooklyn, officers stopped § 87(2)(b) [REDACTED]	[REDACTED]
C. POM Colin Kogan	Abuse: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Colin Kogan interfered with § 87(2)(b) [REDACTED]'s use of a recording device.	[REDACTED]
D. POM Colin Kogan	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Colin Kogan used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E. POM Luis Miranda	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Luis Miranda used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F. An officer	Force: At § 87(2)(b) [REDACTED] in Brooklyn, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
G.POM Colin Kogan	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Colin Kogan spoke discourteously to § 87(2)(b)	
H.POM Luis Miranda	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Luis Miranda spoke discourteously to § 87(2)(b)	
I.POF Lace Kirk	Abuse: At the 81st Precinct stationhouse, Police Officer Lace Kirk did not obtain medical treatment for § 87(2)(b)	
J.POM Andrew Fredrickson	Abuse: At the 81st Precinct stationhouse, Police Officer Andrew Fredrickson did not obtain medical treatment for § 87(2)(b)	
K.LT Roman Israilov	Abuse: At the 81st Precinct stationhouse, Lieutenant Roman Israilov did not obtain medical treatment for § 87(2)(b)	
L.POM Colin Kogan	Abuse: At the PSA3 stationhouse, Police Officer Colin Kogan did not obtain medical treatment for § 87(2)(b)	
M.POM Luis Miranda	Abuse: At the PSA3 stationhouse, Police Officer Luis Miranda did not obtain medical treatment for § 87(2)(b)	

Case Summary

On August 18, 2017, § 87(2)(b) (hereafter referred to as § 87(2)(b)) filed this complaint online with the CCRB [01 Board Review].

At approximately 10:49 p.m. on August 16, 2017, § 87(2)(b) and his girlfriend, § 87(2)(b) were sitting in § 87(2)(b)'s vehicle in the parking lot of § 87(2)(b) in Brooklyn when PO Colin Kogan, PO Luis Miranda, and PO Phillip Correale of the Housing Borough Brooklyn Impact Response Team stopped them and asked them to exit the vehicle after observing a lit marijuana cigarette (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) took out his cell phone to record the incident and PO Kogan allegedly attempted to prevent him from doing so (**Allegation C: Abuse of Authority**, § 87(2)(g)). The officers began to place § 87(2)(b) under arrest, but he attempted to flee and struggled with officers. PO Kogan allegedly kicked § 87(2)(b)'s leg out from under him, causing him to fall to the ground, and punched and kicked him while he was down (**Allegations D: Force**, § 87(2)(g)). PO Miranda allegedly kicked § 87(2)(b) while he was on the ground (**Allegation E: Force**, § 87(2)(g)). § 87(2)(b) attempted to pull the officers off of § 87(2)(b) and an officer allegedly pushed her back (**Allegation F: Force**, § 87(2)(g)). PO Kogan and PO Miranda allegedly told § 87(2)(b) to "Shut the fuck up" (**Allegations G and H: Discourtesy**, § 87(2)(g)).

Several officers from the 81st Precinct arrived on scene, and § 87(2)(b) was transported to the 81st Precinct stationhouse by PO Lace Kirk and PO Andrew Fredrickson of the 81st Precinct. En route to the stationhouse, these officers allegedly ignored § 87(2)(b)'s repeated requests to go to the hospital (**Allegations I and J: Abuse of Authority**, § 87(2)(g)). While waiting at the 81st Precinct stationhouse, § 87(2)(b) requested medical attention from Lieutenant Roman Israilov of the 81st Precinct, who allegedly did not provide it for him (**Allegation K: Abuse of Authority**, § 87(2)(g)). PO Kogan and PO Miranda transported § 87(2)(b) from the 81st Precinct stationhouse to the PSA3 stationhouse. En route to the stationhouse, § 87(2)(b) asked to be taken to the hospital and was again told that he had to wait (**Allegations L and M: Abuse of Authority**, § 87(2)(g)). At the PSA3 stationhouse, an officer called an ambulance for § 87(2)(b). He was transported to § 87(2)(b) and diagnosed with contusions [02 Board Review]. As a result of the incident, § 87(2)(b) was arrested and charged with § 87(2)(b) [03 Board Review]. § 87(2)(b) was not arrested or issued a summons as a result of this incident. No video footage was available for this incident.

Allegation A – Abuse of Authority: At § 87(2)(b) in Brooklyn, officers stopped § 87(2)(b)

Allegation B – Abuse of Authority: At § 87(2)(b) in Brooklyn, officers stopped § 87(2)(b)

§ 87(2)(b) testified that, before meeting up with § 87(2)(b) he was smoking marijuana with a group of approximately ten people near the playground outside § 87(2)(b). He stopped smoking and left the group when § 87(2)(b) arrived in the parking lot. § 87(2)(b) parked her vehicle in a legal parking spot and the two of them sat together for approximately three minutes before the officers approached. During that time, they did not smoke or drink

anything. § 87(2)(b) stated that § 87(2)(b) did not have a sticker allowing her to park on NYCHA property. When the officers first approached, PO Kogan requested § 87(2)(b)'s identification. PO Miranda then asked § 87(2)(b) to exit her vehicle and questioned her about whether she had been smoking marijuana, why she was in the area, and what she was doing with § 87(2)(b) [04 Board Review].

§ 87(2)(b) did not provide a sworn statement for this case [23 Board Review]. During a phone statement, she echoed § 87(2)(b)'s testimony that the two of them were sitting in her legally parked vehicle and were not smoking or drinking anything for a few minutes before they were approached by the officers. § 87(2)(b)'s vehicle did not have a NYCHA parking sticker. After the officers approached, PO Miranda asked her to step out of her vehicle and questioned her about whether she had been smoking marijuana, which § 87(2)(b) denied. They did not have any further conversation [05 Board Review].

PO Kogan testified that he and his partners were driving through the parking lot of § 87(2)(b) with their windows down when they noticed a strong smell of burnt marijuana in the air. This drew PO Kogan's attention to § 87(2)(b)'s vehicle, which was parked 30 feet away at the time. The vehicle was rear-parked in a legal parking space and off, but it did not have a parking sticker on its windshield. Vehicles without a NYCHA parking sticker are not permitted to park on NYCHA property. PO Kogan noticed the silhouettes of two people sitting inside. He did not see anyone else in the vicinity at the time. The officers drove several feet closer to the vehicle and noticed that the odor of marijuana was stronger, so they parked their vehicle around the corner and approached § 87(2)(b)'s vehicle on foot. PO Kogan stated that the smell of marijuana and lack of a parking sticker were the only factors leading the officers to approach the vehicle. PO Kogan and one of his partners, he did not recall who, approached the vehicle's passenger side, where § 87(2)(b) was seated, while the remaining officer approached the driver's side. Upon approach, PO Kogan saw that § 87(2)(b) was holding a lit marijuana cigarette in his hand, at which point he was considered to be under arrest. PO Kogan requested § 87(2)(b)'s identification while one of his partners spoke to § 87(2)(b). PO Kogan did not hear any part of this conversation and did not know if any officer questioned § 87(2)(b) [06 Board Review].

PO Miranda's § 87(2)(g) stated that the officers approached the vehicle due to the odor of marijuana and lack of a NYCHA parking sticker. PO Miranda approached the driver's side of the vehicle and requested § 87(2)(b)'s license. He told § 87(2)(b) that she needed a NYCHA sticker to be parked on NYCHA property. However, he did not question her about whether she had been smoking marijuana, why she was with § 87(2)(b) or what she was doing in the area. As PO Miranda spoke with § 87(2)(b) on the driver's side, he looked up and saw PO Correale making a gesture to him from the passenger side of the vehicle. PO Correale pinched his thumb and index finger together as if to indicate that § 87(2)(b) had a marijuana cigarette. In response, PO Miranda left § 87(2)(b) and walked to the passenger side of the vehicle. PO Miranda never personally observed the marijuana and never learned where PO Correale had seen it [07 Board Review].

PO Correale's testimony was largely consistent with that of his partners. However, PO Correale stated that he approached § 87(2)(b)'s vehicle exclusively due to the odor of marijuana and that he did not notice that she did not have a parking sticker until later. PO Correale testified that he and PO Kogan approached the front passenger side door. PO Correale immediately noticed a lit

marijuana cigarette near the cup holder in the vehicle's center console. Immediately after making this observation, PO Correale walked around to the driver's side, asked § 87(2)(b) to exit the vehicle, and asked her if anyone had been smoking marijuana. § 87(2)(b) said no and PO Correale did not ask her any other questions. He did not know if PO Miranda questioned § 87(2)(b) [08 Board Review].

According to property vouchers, a marijuana cigarette and several plastic baggies of marijuana were recovered during § 87(2)(b)'s arrest [09 Board Review].

A stop may be conducted when a police officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime. *People v. DeBour*, 40 N.Y.2d 210 (1976) [11 Board Review]. To ask pointed questions that could lead someone to believe that they are the focus of an investigation, officers must have a founded suspicion that criminality is afoot. *Id.* [11 Board Review]. According to NYCHA Parking Rules and Regulations, a vehicle cannot be parked in a NYCHA parking lot unless a NYCHA-issued parking sticker is affixed to its front windshield [27 Board Review].

§ 87(2)(g)

Allegation C – Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Colin Kogan interfered with § 87(2)(b)'s use of a recording device.

After PO Kogan requested § 87(2)(b)'s ID, he took out his cell phone, said “I’m gonna go live on Facebook,” and began to record. PO Kogan asked § 87(2)(b) to exit his vehicle and he complied. After he exited the vehicle, PO Kogan tried and failed to grab § 87(2)(b)'s phone from his hands. After he was taken to the ground, § 87(2)(b) threw his phone under § 87(2)(b)'s vehicle for safekeeping [04 Board Review].

PO Kogan testified that, as soon as he observed the lit marijuana cigarette in § 87(2)(b)'s hand, he was considered under arrest. PO Kogan asked § 87(2)(b) to exit his vehicle and he complied. As he exited, he took out his cell phone and began to record. PO Kogan stated that either PO Correale or PO Miranda took the cell phone out of § 87(2)(b)'s hand and placed it on the dashboard. None of the officers issued him any commands before taking the phone and the officer did not have to struggle to obtain it [06 Board Review].

PO Miranda also testified that § 87(2)(b) exited his vehicle voluntarily, but began recording immediately afterwards. PO Miranda asked § 87(2)(b) to put his phone away because he was being placed under arrest. § 87(2)(b) ignored this request and attempted to run. At some

point during the ensuing struggle to handcuff § 87(2)(b) an officer, PO Miranda did not recall which, grabbed § 87(2)(b)'s phone from his hands and later vouchered it for safekeeping [07 Board Review].

PO Correale testified that § 87(2)(b) started recording while inside his vehicle. Officers asked him to exit his vehicle at least twice before he complied. When he did so, he positioned his body so that he was facing the vehicle with his back to the officers. He extended his arm in front of him and began to record the officers behind him with the phone's front-facing camera. PO Correale stated that the officers reached for his arms to put them behind his back, but before they could do so, § 87(2)(b) started to run. PO Correale did not recall what happened to the cell phone during the struggle or whether he still had it when officers handcuffed him [08 Board Review].

Members of the public are legally allowed to record police interactions as long as they are not interfering with police operations. NYPD Finest Message #9881632 (2014) [12 Board Review].

§ 87(2)(g)
[REDACTED]

Allegation D – Force: At § 87(2)(b) in Brooklyn, Police Officer Colin Kogan used physical force against § 87(2)(b)

Allegation E – Force: At § 87(2)(b) in Brooklyn, Police Officer Luis Miranda used physical force against § 87(2)(b)

§ 87(2)(b) stated that, after he voluntarily exited his vehicle, PO Kogan instructed him to put his hands behind his back. § 87(2)(b) complied at first and PO Kogan handcuffed one of his wrists. However, § 87(2)(b) quickly grew frustrated with the fact that PO Kogan was not explaining why he was being handcuffed. As he asked what was happening, § 87(2)(b) moved his free arm up to make an exasperated gesture. In response, PO Kogan allegedly used his foot to kick one of § 87(2)(b)'s legs out from under him, causing him to fall to the ground. PO Kogan did not issue him any commands before doing so. § 87(2)(b) stated that, prior to this point, he never physically resisted in any way. As soon as § 87(2)(b) fell to the ground, PO Kogan allegedly began kicking him in the ribs. At some point, PO Miranda also began to kick § 87(2)(b) in the ribs. The officers kicked § 87(2)(b) for a total of four minutes, resulting in bruises to his ribs and a few bloody scrapes on various parts of his body [13 Board Review]. At some point during those four minutes, PO Kogan also allegedly punched § 87(2)(b) in the face. This did not result in any injuries [04 Board Review].

Roughly an hour and a half after his arrest, § 87(2)(b) was transported by FDNY ambulance to § 87(2)(b). His Prehospital Care Report notes that he complained of pain to his rib cage because he was kicked in the ribs by a police officer while being arrested. The report notes that § 87(2)(b) had blood on his hands. At § 87(2)(b) § 87(2)(b) was

diagnosed with contusions to his ribs. The medical records note that he had scars on his ribs from an old injury [02 Board Review].

§ 87(2)(b) testified that she overheard § 87(2)(b) ask the officers why he was being removed from the vehicle. From what she could see, he did not physically resist the officers in any other way. In response to § 87(2)(b)'s question, officers dragged him to the ground and started kicking him. § 87(2)(b) ran to the passenger's side of the vehicle and saw the officers piled on the ground on top of § 87(2)(b). The officers struggled with § 87(2)(b) for approximately five minutes [05 Board Review].

PO Kogan testified that as soon as § 87(2)(b)'s phone was confiscated, § 87(2)(b) shoved the officers and attempted to run away. § 87(2)(b) only got as far as the front of § 87(2)(b)'s vehicle before PO Kogan, PO Miranda, and PO Correale caught up with him and grabbed his arms. The officers collectively tried to pull § 87(2)(b)'s arms behind his back, but § 87(2)(b) resisted by stiffening his arms and twisting his body. After a brief struggle, the officers were able to position § 87(2)(b) onto the hood of an empty vehicle parked next to § 87(2)(b)'s. At that point, PO Kogan requested additional units to the scene by shouting his location over the radio. Once he was on the hood of the vehicle, § 87(2)(b) used his body weight to pull away from the officers. This movement, combined with the fact that § 87(2)(b)'s shirt was causing him to slip off the hood, caused § 87(2)(b) to fall to the ground. Because the officers were holding onto him at the time, they also fell to the ground. None of the officers executed a takedown. § 87(2)(b) landed on his back and the officers landed on either side of him. While on the ground, § 87(2)(b) continued to resist in the same way as before. After approximately five seconds, the officers were able to turn § 87(2)(b) so that he was face down on the ground, grab his arms, and handcuff him. In total, the struggle lasted for fifteen seconds. No officer punched, kicked, or otherwise struck § 87(2)(b). PO Correale injured his shoulder during the struggle and went LOD as a result, but PO Kogan did not see how he sustained this injury [06 Board Review].

PO Miranda's testimony was consistent with PO Kogan's with the following exceptions. PO Miranda testified that, in addition to the resistance described by PO Kogan, § 87(2)(b) momentarily broke free from the officers and swung at them during the struggle. PO Miranda was not hit but did not know if either of his partners were. PO Miranda stated that he was the one who radioed for assistance during the struggle. Finally, PO Miranda believed that the struggle was ongoing for a matter of minutes, not a matter of seconds. Like PO Kogan, PO Miranda testified that minimal force, as described above, was used to place § 87(2)(b) in handcuffs and that no officer punched, kicked, or otherwise struck him [07 Board Review].

PO Correale's testimony was consistent with PO Kogan's except for his assertion that PO Miranda was the officer who went over the radio to request assistance. Like his partners, PO Correale testified that minimal force, as described above, was used to handcuff § 87(2)(b) and that no officer punched, kicked, or otherwise struck him. PO Correale sustained injuries to his shoulder and knee during this incident, went LOD, and was treated at § 87(2)(b) [08 Board Review].

It is undisputed that officers used some level of force against § 87(2)(b) while placing him under arrest. However, whether § 87(2)(b) was kicked, punched, or intentionally taken to

the ground remains in dispute. § 87(2)(g)

Allegation F – Force: At § 87(2)(b) in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b) testified that § 87(2)(b) attempted to intervene in the struggle by hitting either PO Kogan or PO Miranda in the back of the head. In response, one of the officers allegedly pushed § 87(2)(b) away, which did not result in any injuries [04 Board Review].

§ 87(2)(b) testified that she tried to pull one of the officers off of § 87(2)(b) and that an officer pushed her back against her vehicle in response. This resulted in pain but no visible injuries [05 Board Review].

PO Kogan, PO Miranda, and PO Correale each testified that § 87(2)(b) did not attempt to physically interfere with the arrest and that no officer pushed her or made any other type of physical contact with her [06, 07, 08 Board Review].

A member of the service may use force when it is reasonable to ensure the safety of a member of the service or place a person into custody. Patrol Guide, Procedure 221-01 [14 Board Review].

§ 87(2)(g)

Allegation G – Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Colin Kogan spoke discourteously to § 87(2)(b)

Allegation H – Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Luis Miranda spoke discourteously to § 87(2)(b)

Allegation I – Abuse of Authority: At the 81st Precinct stationhouse, Police Officer Lace Kirk did not obtain medical treatment for § 87(2)(b)

Allegation J – Abuse of Authority: At the 81st Precinct stationhouse, Police Officer Andrew Fredrickson did not obtain medical treatment for § 87(2)(b)

Allegation K – Abuse of Authority: At the 81st Precinct stationhouse, Lieutenant Roman Israilov did not obtain medical treatment for § 87(2)(b)

Allegation L – Abuse of Authority: At the PSA3 stationhouse, Police Officer Colin Kogan did not obtain medical treatment for § 87(2)(b)

Allegation M – Abuse of Authority: At the PSA3 stationhouse, Police Officer Luis Miranda did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) testified that, as PO Kogan and PO Miranda were kicking him, he asked them to call him an ambulance. Both officers allegedly told him to “Shut the fuck up” and ignored his request. § 87(2)(b) stated that, as a result of the force used against him, he sustained bruises and bloody lacerations to his chest. § 87(2)(b) testified that he was wearing a shirt at the time of the incident, but also stated that every officer he interacted with would have been able to see the injuries. Once § 87(2)(b) was handcuffed, additional units arrived on scene, and § 87(2)(b) was transported to the 81st Precinct stationhouse by PO Kirk and PO Fredrickson of the 81st Precinct. En route to the stationhouse, § 87(2)(b) asked the officers to take him to the hospital. The officers did not do so, and PO Kirk allegedly told him that he needed to go to the stationhouse before he could be hospitalized. While at the 81st Precinct stationhouse, § 87(2)(b) requested medical attention from an officer identified by the investigation as Lieutenant Roman Israilov of the 81st Precinct. Lieutenant Israilov allegedly told § 87(2)(b) that he would have to wait for his arresting officer to pick him up before he could receive medical attention. § 87(2)(b) stated that, after waiting for 35 minutes at the 81st Precinct stationhouse, PO Kogan and PO Miranda picked him up and drove him to the PSA3 stationhouse. On the way there, § 87(2)(b) asked for medical attention numerous times, but both officers told him that he would have to wait until he got to the stationhouse. When they arrived at the desk, § 87(2)(b) asked PO Kogan for medical attention again. When PO Kogan ignored his request, the desk sergeant told PO Kogan to call for an ambulance. § 87(2)(b) did not know who ultimately called for an ambulance, but stated that he waited at PSA3 for one to two hours before an ambulance arrived [04 Board Review].

§ 87(2)(b) stated that, once § 87(2)(b) was handcuffed, she noticed bruises on his chest and blood on his leg. § 87(2)(b) repeatedly shouted that he needed medical attention, but no one made any response. She did not allege that any officer used profanity [05 Board Review].

§ 87(2)(b) was lodged in the cells at the 81st Precinct stationhouse at the time of this incident. § 87(2)(b) did not see any civilian with visible injuries in the cells and never heard any civilian request medical attention. He never saw any prisoners fighting in the cell area [15 Board Review].

PO Kogan testified that § 87(2)(b) did not complain of any pain or injuries on scene, although he did say that he was struggling to breathe. Although PO Kogan did not see any signs that § 87(2)(b) was having trouble breathing, he positioned him on his side on the ground so that he would be more comfortable. PO Kogan stated that § 87(2)(b) did not have any visible injuries on scene and did not request medical attention. PO Kogan’s vehicle did not have a cage, so one of the additional units responding to the scene brought § 87(2)(b) to the 81st Precinct stationhouse while PO Kogan and his partners followed behind. PO Kogan never learned that § 87(2)(b) had requested medical attention en route to the stationhouse. PO Kogan stated that no officer used profanity against § 87(2)(b) in any context.

After arriving at the 81st Precinct stationhouse, PO Kogan spoke briefly to Sgt. Gina Morning, the desk sergeant, but she did not inform him that § 87(2)(b) had requested medical attention. PO Kogan then went upstairs to speak with the 81st Precinct Detective Squad regarding § 87(2)(b)’s open i-cards. When PO Kogan went back downstairs, an unidentified officer told him that § 87(2)(b) had attempted to start a fight with other males in the cell area. PO Kogan did not know if this was a physical dispute or whether § 87(2)(b) was injured as a

result. After five to ten minutes at the 81st Precinct stationhouse, PO Kogan and his partners brought § 87(2)(b) to the PSA3 stationhouse. To PO Kogan's knowledge, § 87(2)(b) never requested medical attention or complained of pain or injuries at the 81st Precinct stationhouse.

§ 87(2)(b) did not request medical attention or complain of pain or injuries en route to the PSA3 stationhouse. However, as PO Kogan walked § 87(2)(b) into the stationhouse, he noticed that he had minor scratches on one of his elbows. Although § 87(2)(b) never asked PO Kogan to call an ambulance, PO Kogan called for one in the parking lot. When they entered the stationhouse, PO Kogan informed Sgt. Farrell, who was the desk sergeant at the time, that he had observed scratches on § 87(2)(b)'s elbow and had already called for an ambulance from the parking lot. As PO Kogan and his partners lodged § 87(2)(b) in the cells, he complained of pain to his ribs. PO Kogan told § 87(2)(b) that the ambulance was already on its way, and it arrived 15 minutes later. PO Kogan testified that he was the primary officer dealing with § 87(2)(b) throughout this incident. To his knowledge, § 87(2)(b) never asked PO Miranda for medical attention or complained to him of pain or injuries. PO Kogan stated that, throughout this incident, no officer refused to provide medical treatment to § 87(2)(b) [06 Board Review].

PO Miranda testified that § 87(2)(b) did not request medical attention at § 87(2)(b) and did not complain of pain or injuries on scene. No officer told § 87(2)(b) to "Shut the fuck up" or used any other profanity towards him. While on scene, PO Miranda noticed that § 87(2)(b) appeared to be bleeding from reopened scratches on his legs. PO Miranda believed that these were old injuries because he saw scabbing surrounding the scratches. PO Miranda did not see any other injuries while on scene. Once § 87(2)(b) was handcuffed, officers from the 81st Precinct brought him to the 81st Precinct stationhouse. PO Miranda and his partners followed behind. When they arrived at the stationhouse, they went upstairs to speak with officers from the detective squad about § 87(2)(b)'s i-cards. Their discussion was cut short when an unidentified 81st Precinct officer came upstairs and asked for an officer from the Impact Response Team to watch § 87(2)(b).

When PO Miranda went downstairs, he learned that § 87(2)(b) had been moved to a different cell because he had gotten into a physical fight with another prisoner. PO Miranda stood outside § 87(2)(b)'s cell to make sure that he did not get into any fights with anyone else. There were no other civilians or officers in the vicinity. Initially, PO Miranda testified that § 87(2)(b) requested medical attention while in the cell and complained that officers had kicked and struck him. He later amended his testimony to say that § 87(2)(b) complained of pain to his ribs at the 81st Precinct stationhouse but did not request medical attention.

PO Miranda testified that, after less than 30 minutes at the 81st Precinct stationhouse, he and his partners brought § 87(2)(b) to the PSA3 stationhouse for arrest processing. On their way out, PO Miranda saw § 87(2)(b)'s brother, § 87(2)(b) who he recognized from a previous incident. § 87(2)(b) asked PO Miranda to make sure that § 87(2)(b) went to the hospital. PO Miranda stated that this would not be a problem and that he would gladly obtain medical attention for him. PO Miranda testified that he never learned that § 87(2)(b) had requested medical attention at the PSA3 stationhouse. § 87(2)(b) did not request medical attention en route to the PSA3 stationhouse. PO Miranda stated that § 87(2)(b)

§ 87(2)(b) was lodged in the cells without ever requesting medical attention. He did not recall how long this process took. However, five minutes after he was brought to the cell area, § 87(2)(b) called PO Miranda over and told him that he needed to go to the hospital because he was in pain. PO Miranda immediately called for an ambulance. Within minutes, EMTs arrived at the stationhouse and transported § 87(2)(b) to § 87(2)(b) [07 Board Review].

PO Correale testified that § 87(2)(b) did not request medical attention at the scene of his arrest. PO Correale did not see any injuries to § 87(2)(b) and stated that § 87(2)(b) never complained of any pain or injuries. No officer told him to “Shut the fuck up” or used profanity toward him on scene. Officers from the 81st Precinct transported § 87(2)(b) to the stationhouse, and PO Correale and his partners followed behind them. PO Correale never learned that § 87(2)(b) had requested medical attention en route to the stationhouse. After arriving at the stationhouse, PO Correale waited downstairs as one of his partners went upstairs to speak with officers from the detective squad. PO Correale never learned that there was a fight in the cell area, but was informed by an unknown 81st Precinct officer that § 87(2)(b) was irate and shouting in the cells. PO Correale never learned that § 87(2)(b) had complained of pain or injuries or requested medical attention at the 81st Precinct stationhouse. After 20 minutes at the 81st Precinct stationhouse, officers transported § 87(2)(b) to PSA3 for arrest processing. PO Correale did not recall whether he was with § 87(2)(b) en route to the PSA3 stationhouse. He never heard or learned that § 87(2)(b) had requested medical attention en route to the stationhouse. After arriving at the PSA3 stationhouse, PO Correale noticed that § 87(2)(b) had several small scrapes on his elbows. They were bleeding slightly. PO Correale did not interact with § 87(2)(b) at the PSA3 stationhouse, but stated that he overheard several officers near the desk state that § 87(2)(b) had requested medical attention and that an ambulance needed to be called for him. PO Correale did not know who called for an ambulance. Shortly after arriving at the PSA3 stationhouse, PO Correale went to the hospital for his own injuries. PO Correale never learned that any officer refused to provide medical attention to § 87(2)(b) at any point throughout this incident [08 Board Review].

PO Kirk responded to a call for additional units at § 87(2)(b). When she arrived, § 87(2)(b) was already in handcuffs. He did not appear to be injured. PO Kirk and her partner, PO Fredrickson, transported § 87(2)(b) to the stationhouse. During that time, § 87(2)(b) never complained of pain or injuries or requested medical attention. PO Kirk and PO Fredrickson stayed at the 81st Precinct stationhouse for two minutes before resuming patrol. During that time, they never heard § 87(2)(b) request medical attention or complain of pain or injuries and they never refused to obtain medical treatment for him [16 Board Review].

PO Fredrickson’s testimony was consistent with PO Kirk’s in that he and PO Kirk did not hear § 87(2)(b) request medical treatment and never refused to obtain it for him [17 Board Review].

Lieutenant Israilov was working as the 81st Precinct Platoon Commander at the time of this incident. He was at the stationhouse doing administrative work when § 87(2)(b) arrived. § 87(2)(b) stated that he requested medical attention from a white male officer in the 81st Precinct stationhouse who stood 6’ tall, had dark hair, was in his 40s or 50s, and was dressed in a white uniform shirt. Lieutenant Israilov is a 5’10”, 37-year-old white male with dark hair. He was dressed in uniform at the time and was the only lieutenant working. Based on these factors, the

investigation identified him as the subject of § 87(2)(b)'s allegation. Lieutenant Israilov had no recollection of this incident and did not recognize a photo of § 87(2)(b). Although he was working in the stationhouse at the time of the incident, he did not specifically recall where he was working at the time, and stated that, depending on where he was sitting, he may or may not have been in a position to interact with civilians. He never learned that officers from the Impact Response Team had brought a prisoner to the stationhouse, never saw any injured prisoners, never heard a prisoner complain of pain or injuries, and never heard any prisoner request medical attention. He never learned that there was an issue with civilians fighting in the stationhouse on the date in question [18 Board Review].

Sgt. Morning of the 81st Precinct was working as the desk sergeant at the time of the incident. Sgt. Morning testified that she had no recollection of this incident and did not recognize a photo of § 87(2)(b). Sgt. Morning stated that, at the time of this incident, she did not see or interact with a prisoner who had visible injuries or complained of pain or injuries, no civilian requested medical attention from her, and she never refused to provide medical attention to anyone. Sgt. Morning never learned that a prisoner at the 81st Precinct had requested medical attention on the date in question. Sgt. Morning testified that, from where she was seated, she would have been able to observe what was going on in the cells. However, she never observed or learned that prisoners were fighting in the cell area [19 Board Review].

Sgt. Brian Farrell of the Impact Response Team was working as the Response Team Sergeant on the date of the incident. Sgt. Farrell was at the PSA3 stationhouse when PO Kogan brought § 87(2)(b) back for arrest processing. § 87(2)(b) did not appear to be injured and did not complain of pain or injuries or request medical attention while in Sgt. Farrell's presence. Sgt. Farrell never learned that § 87(2)(b) had requested medical attention before being brought to the stationhouse. After lodging § 87(2)(b) in the cells, Sgt. Farrell did not see § 87(2)(b) again. The next day, he learned that § 87(2)(b) had requested medical attention from the PSA3 stationhouse. However, Sgt. Farrell did not recall how he learned this, when § 87(2)(b) requested medical attention, who he requested it from, or what the medical issue was. As far as Sgt. Farrell knew, § 87(2)(b) was not refused medical attention at any point during this incident [20 Board Review].

NYPD and FDNY documents show that § 87(2)(b) arrived at the 81st Precinct stationhouse at 10:52 p.m. At 11:20 p.m., he was taken to the PSA3 stationhouse. At 12:13 a.m., an ambulance was called for § 87(2)(b) [21, 02 Board Review].

As discussed above, § 87(2)(b) was transported to § 87(2)(b) following this incident. His Prehospital Care Report notes that he complained of pain to his ribs and had blood on his hands. His medical records note that he was diagnosed with contusions to his abdomen. They make no mention of any scrapes, lacerations, or other injuries [02 Board Review].

Officers are required to obtain medical treatment for prisoners who require medical attention. Patrol Guide, Procedure 210-04 [22 Board Review].

§ 87(2)(g)

§ 87(2)(g)

Whether § 87(2)(b) requested medical attention from PO Kirk, PO Fredrickson, or Lieutenant Israilov en route to or at the 81st Precinct stationhouse also remains in dispute. PO Kirk and PO Fredrickson denied that § 87(2)(b) ever appeared to require medical assistance or requested medical attention, while Lieutenant Israilov stated that he had no recollection of ever interacting with § 87(2)(b) or seeing an injured prisoner on the date in question. § 87(2)(g)

Finally, § 87(2)(b) alleged that PO Kogan and PO Miranda ignored his requests for medical attention at the scene of his arrest and en route to the PSA3 stationhouse. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b)'s injuries and the number of subject officers involved in this case rendered it unsuitable for mediation.
- On December 11, 2017, a request for any Notice of Claim on file for this incident was made to the Comptroller's office. The results will be added to the case file upon receipt [24 Board Review].

• § 87(2)(b)

§ 87(2)(b)

- Office of Court Administration (OCA) records for § 87(2)(b) show no criminal records in the City of New York in the last 10 years [28 Board Review].

Civilian and Officer CCRB Histories

- This is the second CCRB complaint filed by § 87(2)(b). The first, #201705485, also names PO Kogan and PO Miranda as subject officers and is currently under investigation [26 Board Review].
- PO Kogan has been a member of the NYPD for two years. This is the second CCRB case filed against him, and he has three prior allegations on his record. The first case, #201705485, contains a verbal discourtesy and an interference with recording device allegation. Both allegations are recommended § 87(2)(g) and are pending Board review. § 87(2)(b) was the victim of both allegations.
- PO Miranda has been a member of the NYPD for two years. This is the third CCRB case filed against him, and he has three prior allegations on his record. One prior case, #201705485, contains a discourtesy allegation that was recommended § 87(2)(g). § 87(2)(g)
- PO Kirk has been a member of the NYPD for three years. This is the second CCRB case filed against her, and she has one prior allegation against her. § 87(2)(g)
- PO Fredrickson has been a member of the NYPD for three years. This is the first CCRB case filed against him.
- Lieutenant Israilov has been a member of the NYPD for 14 years. This is the fourth CCRB case filed against him, and he has eight prior allegations on his record. § 87(2)(g) One case, #201507239, contained a substantiated vehicle search allegation, for which Lieutenant Israilov received formalized training.

Squad: 7

Investigator: _____ Inv. Katherine Matejcak _____
Signature Print Date

Squad Leader: _____ IM Diana Townsend _____
Title/Signature Print Date

Reviewer: _____

Title/Signature

Print

Date